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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/483,579	01/14/2000	Bruce A. Fogelson	77752	8561

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EXAMINER

MCALLISTER, STEVEN B

ART UNIT

PAPER NUMBER

3627

DATE MAILED: 11/29/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
09/483,579

Applicant(s)
Fogelson

Examiner
Steven McAllister

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Sep 11, 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-43 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-43 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on Jan 14, 2000 is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 6) ☐ Other:

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DETAILED ACTION

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, all steps of all claims (Cls. 1-20); and the selection processor and commission processor (cl. 34) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered. (Note: while the steps of the method of using the website appear to be shown, the steps of claimed method are not).

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 2-20, 22-38 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 2-20, 22-33 and 35-38, recite "a customer" and "a building contractor" even though the customer and the building contractor have already been recited.

Claim 18 is indefinite because of the recitation of "such as".

Claims 18 and 19 are indefinite because "and/or" is unclear.

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Claim 19 is indefinite because the preamble of the recites the subcombination of “The method of servicing a customer of a building contractor”, but the body of the claim recites the combination of servicing a customer and exchanging files between the contractor and a designer. It is noted that the exchange of files as described in the specification is accomplished by email and seems largely independent of the applicant’s system or the third party. It is further noted that the files do not appear to be exchanged in order to service the customer of the building contractor, but to help the contractor develop new offerings (see pgs. 30-31). It is not clear whether the applicant intended to claim the subcombination or the combination. The applicant should amend the claims to positively recite either the combination or the subcombination. In examining the claim, it was read as the subcombination.

Claim 20 is indefinite because the preamble recites the subcombination of “servicing of a customer of a building contractor by a third-party website provider”, but the body of the claim recites the combination of method steps by the third party website provider and steps independent of the website provider such as “exchanging product files among the builder, suppliers and manufactures using a common file format”. It is noted that the exchange does not appear to be in order to service the customer of the building contractor. It is unclear whether the applicant intended to claim the combination or the subcombination. The claim should be rewritten to positively recite either the combination or subcombination. In examining the claim, it was assumed that the subcombination was claimed.

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Claim 34 is unclear because it recites an apparatus comprising “a selection processor” and “a commission processor”. It is not clear whether this is intended to claim two functional subsystems or two physical processors. In examining the claims it was assumed to claim two functional subsystems.

Claim 39 is indefinite because it recites “and/or”.

Claims 40-43 are indefinite because they recite a method claim, but depend from an apparatus claim.

Claim 43 is unclear because it is not clear whether it is claiming a virtual showroom provided by a third part or a virtual showroom of products which are offered by a third party.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

5. Claim 1, 3- 5, 9, 11, 12, 19-21, 23-25, 31, 33, 34, and 36 are rejected under 35 U.S.C. 102(a) as being anticipated by “RFP Marketing Opportunities Abound At ‘Design Your Dream House’ Site” (RFP).

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RFP shows building a third party web site for customer selection of building options; receiving from the customer through the site a selection of an option provided by a contractor; and collecting a commission from the builder

As to claims 4 and 5, RFP shows a webpage that is associated with a feature and where a plurality of options since a web site inherently has at least one page and RFP discloses providing options that can be chosen for features.

As to claim 9, RFP shows a second website associated with the first website for entry of information related to the customers.

As to claim 11, it is inherent that since the customer may designate a contractor and the contractor has access to the second website, that the second website may be accessed by a party designated by the customer.

As to claim 12, since the information entered by the contractor is regarding a certain job and that job is unique to the customer, the information inherently comprises an identifier of the customer, for instance by customer name, customer number, job name or job number.

As to claims 21, 23-25, 29, and 31, RFP inherently shows means for performing all steps since performing the steps is shown, as described above.

As to claim 33, RFP inherently shows the means for providing the third website comprising a server, since such a server must exist to support the first and second websites.

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As to claim 34, RFP shows a web site provided by a third party for selecting options. It inherently shows selection and commission processors since such functional subsystems must exist to allow customers to select and to collect the commission as disclosed in the reference.

As to claim 36, RFP inherently show a web page adapted to provide a feature since a website as shown by the reference inherently has at least one web page and the reference shows displaying features.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 7, 8, 14, 15, 27, 28, 38-42, is rejected under 35 U.S.C. 103(a) as being unpatentable over RFP.

As to claims 7, 8, 27, 28, and 38, it is noted that RFP discloses affiliate programs so it inherently discloses receiving a commission on purchases resulting from a click on a hyperlink on the RFP web page. RFP does not disclose a link to a manufacturer. However, it is notoriously old and well known to provide a link on a web page to a manufacturer to provide more information about a product. It would have been obvious to one of ordinary skill in the art

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to modify the method and apparatus of RFP by providing such a link in order to give the customer the most up to data information.

As to claims 14 and 15, RFP shows all elements of the claim except showing an advertisement and charging the vendor for the display. However, it is notoriously old and well known in the art to show advertisements on a web site. It would have been obvious to one of ordinary skill in the art to modify the method of FRP by placing and charging for ads in order to increase revenue.

As to claims 39-42, RFP shows all elements of the claims except that the options are fixtures to be installed. However, it is notoriously old and well known in the art to choose fixtures for installation in a new house. It would have been obvious to one of ordinary skill in the art to modify the method and apparatus of RFP by presenting options for fixtures.

8. Claims 6, 17, 18 26, 37, 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over RFP in view of FTD website.

As to claims 6, 26, and 37, RFP shows all elements of the claim except that a plurality of web pages are used to show the features and options. FTD shows a plurality of pages showing different features Centerpieces and Poinsettias.

As to claim 17, it is noted that FTD shows providing upselling options (such as Deluxe or Premium) based on the option (such as Fresh Flowers Centerpiece) chosen by the customer.

As to claim 18, it is noted that FTD shows another web site accessible by the general public with general information on products available from its contractors.

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As to claim 43, it is noted that FTD shows a third party virtual showroom of products.

9. Claims 10, 16 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over RFP in view of “John Murtaugh -- Builder’s Spotlight” (Murtaugh)..

RFP shows all elements of the claim except having the contractor customize the site by entering specific features. Murtaugh teaches customization by inputting only certain features and options by the contractor. It would have been obvious to one of ordinary skill in the art to modify the method and apparatus of RFP by allowing customization by providing specific features and options by the contractor as taught by Murtaugh in order to enable the contractor to streamline the costing and building process.

10. Claims 2, 13, 22, 32, and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over RFP in view of Colvin, Sr.

As to claims 2, 13, 22, 32, and 35, RFP shows all elements of the claim except password protecting the websites. Colvin, Sr. shows using password protection. It would have been obvious to one of ordinary skill in the art to password protect the website in order to provide data security.

Response to Arguments

11. Applicant's arguments filed 9/11/02 have been fully considered but they are not persuasive.

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Regarding the arguments of applicant's paragraph 2, the examiner thanks the applicant for the amendment, but wishes to clarify that the rejection is based on the idea that the steps recited in claims 19 and 20 and essentially to a different method and the combination of those steps with the method of the preamble (servicing a customer ...) creates a situation where the preamble is drawn to a subcombination and the body of the claim is drawn to a combination.

Regarding the arguments to the 102 rejection over ftd.com and the 103 rejections using ftd.com as a base reference, it is noted that the rejection has been modified and that the arguments therefore considered moot.

Conclusion

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. .

“Former Coleman Executive...” shows computer program for designing homes and choosing options.

“Growth Spurt” shows computer program for designing homes and choosing options.

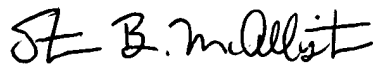
“Great American Virtual Home” shows a virtual showroom.

“Potential Buyers Can ...” shows website allowing selection of options.

“Taking Care of Business” shows real estate and the web.

“Seeing the Sites” shows a site for viewing builder's options.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven B. McAllister whose telephone number is (703) 308-7052.



Steven B. McAllister

November 25, 2002